



Docket No.: 55908 (46322)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: Julian Schofield, et al.

EXAMINER: Mariah, Maria

SERIAL NO.: 09/868,879

GROUP NO.: 1636

FILED: June 22, 2001

FOR: GLYCOSYL PHOSPHATIDYL INOSITOL SPECIFIC PHOSPHOLIPASE
D PROTEINS AND USES THEREOF

COMMISSIONER FOR PATENTS
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CERTIFICATE OF MAILING

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to the: Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450 on **April 22, 2004**.

By: Patricia A. Barnes
Patricia A. Barnes

Sir:

RESPONSE TO RESTRICTION REQUIREMENT

Applicants respond to the outstanding Office Action (Restriction Requirement) dated March 22, 2004 as follows.

The present application is a Rule 371 national stage entry of PCT/GB99/04399 as filed on December 23, 1999. According to the MPEP, restriction practice under 35 USC 121 is not applicable to such applications:

Restriction practice in both international and national stage applications is determined under unity of invention principles as set forth in 37 CFR 1.475 and 1.499. **Restriction practice under 35 USC 121, as it applies to national**

applications submitted under 35 USC 111(a), is not applicable to either international or national stage applications.

See MPEP 1895.01 (I.D)

Respectfully, the present restriction requirement is improper to the extent it relies on 35 USC 121 as stated on pg. 2 of the Action. It is suggested that the Unity of Invention (Item IV) determination set forth on the International Examination Report ("Report") is controlling. Accordingly, Applicants elect Invention I as set forth in the Report which includes claims 1-4, 7-27, 40 and 42.

In the event the USPTO disagrees with Applicants' understanding of the rules of patent practice, the invention of Group IV (claims 4, 7-11, 13-14, and 16-20) is elected with traverse.

Along these lines, it is requested that the Office join the Group IV and V claims (claims 12, 15-16, 21 and 24) together. Such action would certainly not be an undue burden on Office resources.

For instance, the Report has already provided a review of the literature for use by the Office. In this regard, the Report stated that claims 1-4, 7-27, 40 and 42 "appear to be novel".

Moreover, the invention of the Group IV and V claims are related in the sense that an Office review of the literature for the Group IV claims would overlap substantially with the search already conducted by the International Authorities and any separate search done for the Group V claims.

Thus, it is not seen how examination of the Group IV and V claims together would pose an undue burden on Office resources.

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The present election of the Group IV claims is made solely to comply with the restriction requirement set forth in the Office Action. It should not be construed as a disclaimer or surrender of any subject matter in the application. The right to file one or more divisional applications on the non-elected claims is reserved.

Although it is not believed that any additional fees are needed to consider this submission, the Examiner is hereby authorized to charge our deposit account no. 04-1105 should any fee be deemed necessary.

Respectfully submitted,

Date: April 22, 2004



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